

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ELGRET LORENZO BURDEX,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-19-886-D
)	
TIM BRAUER, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin pursuant to 28 U.S.C. § 636(b)(1)(B). Judge Erwin recommends the dismissal of this action without prejudice due to Plaintiff's failure to comply with a prior order that he pay the filing fee or submit a proper motion to proceed *in forma pauperis*.

Within the time period for filing an objection to the Report, Plaintiff has made two *pro se* filings in this case:¹ 1) a document liberally construed as a Motion [Doc. No. 16], requesting that certain prior and pending cases be allowed "to become companion cases;" and 2) a letter [Doc. No. 17] stating he "disagree[s] with the dismissal of [his] cases" because he "didn't ask for habeas corpus relief in [his] amended complaint." Neither filing is responsive to Judge Erwin's finding that Plaintiff "has failed to either submit the required financial documentation or pay the filing fee" for this case. *See* R&R

¹ Plaintiff has also made a filing in another pending case. *See Burdex v. Gerlach*, Case No. CIV-19-919-D, Pl.'s Mot. Produc. Docs. (W.D. Okla. Nov. 15, 2019).

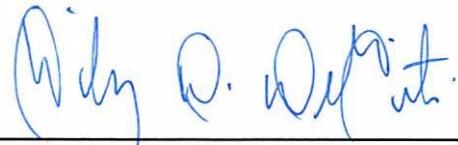
at 3.² Therefore, the Court finds that Plaintiff has failed to file a timely and specific objection to the Report, even though he was expressly informed of his right to object, the procedure for doing so, and the consequences of failing to object. *See id.* at 5.

For these reasons, the Court finds that Plaintiff has waived further review of all issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons stated by Judge Erwin, the Court finds that this action should be dismissed.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 15] is ADOPTED. This action is DISMISSED WITHOUT PREJUDICE to refiling.³

IT IS FURTHER ORDERED that all pending motions [Doc. Nos. 10, 14, 16] are DENIED as moot.

IT IS SO ORDERED this 18th day of November, 2019.



TIMOTHY D. DeGIUSTI
Chief United States District Judge

² Although Judge Erwin recounts that a prior order to cure deficiencies in the Complaint advised Plaintiff that he could not obtain habeas corpus relief in a civil rights case and that he would need to omit habeas claims and file a separate action regarding them (*see* 9/30/19 Order [Doc. No. 8], Plaintiff neither filed an amended complaint nor initiated a separate habeas case.

³ During the pendency of this case, Plaintiff filed another civil rights case that, according to his *pro se* Motion [Doc. No. 16], involves the “same issues.” *See supra* note 1. Therefore, no additional case filing is contemplated by the Court.